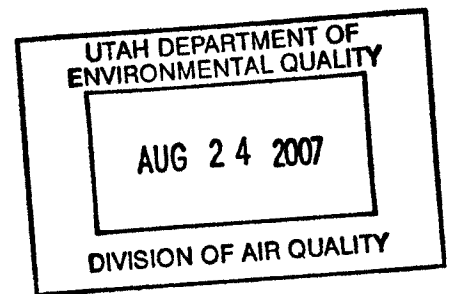


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Attorney for National Parks Conservation Association



### IN THE UTAH AIR QUALITY BOARD

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In Re: Approval Order – the Sevier	:	<b>NATIONAL PARKS</b>
Power Company 270 MW Coal-Fired	:	<b>CONSERVATION ASSOCIATION'S</b>
Power Plant, Sevier County	:	<b>MOTION FOR LEAVE TO</b>
Project Code: N2529-001	:	<b>APPEAR AMICUS CURIAE</b>
DAQE-AN2529001-04	:	

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In Re: Approval Order – PSD Major	:
Modification to Add New Unit 3 at	:
Intermountain Power Generating	:
Station, Millard County, Utah	:
Project Code: N0327-010	:
DAQE-AN0327010-04	:

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The National Parks Conservation Association (“NPCA”), by and through its undersigned counsel and pursuant to Utah Admin Code R 307-103-6(5), respectfully moves the Utah Air Quality Board for leave to appear Amicus Curiae in the above-entitled proceedings and to file amicus curiae briefs therein.

Although the Utah Air Quality Board Rules do not specify any criteria for granting amicus status, Rule 25 of the Utah Rules of Appellate Procedure provides that a motion for leave to appear Amicus Curiae may be granted and provides that: “A motion

for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae ... is desirable.”

### **Interest of Amicus Curiae**

The National Parks Conservation Association is a nonprofit citizen organization dedicated to protecting the interests of its members in the United States’ National Park System. NPCA’s Southwest Regional Office is located at 307 West 200 South, Suite 5000, Salt Lake City, Utah 84101. NPCA’s national office is located at 1300 19th Street, N.W., Suite 300, Washington, DC 20036.

NPCA’s purpose is to protect and enhance the natural and cultural resources of America’s National Park System including its forests, wilderness and open space areas through research, public education, advocacy and litigation.

NPCA was founded in 1919, and today has 337,438 members nationwide, including 2,151 members residing in Utah. NPCA and its members are active in protecting the air quality and related values in our National Park System which includes Arches, Bryce Canyon, Canyonlands, Capitol Reef and Zion National Parks in Utah.

### **Desirability of a Brief of Amicus Curiae**

When it amended the Clean Air Act in 1977, Congress extended special protective status to National Parks, which it termed Class I areas. 42 U.S.C. § 7472(a). Congress sought to protect the air quality of National Parks through the Prevention of Significant Deterioration ("PSD") program and the creation of the national ambient air quality standards. Congress also created a “visibility” program designed to protect the “intrinsic beauty and historical and archeological treasures” in these pristine areas. *See*, H.R. Rep. No. 294, 95th Cong., 1st Sess. 203-05.

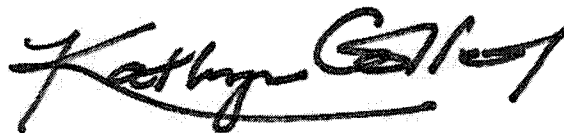
NPCA is concerned about the impacts the two planned facilities may have on the air quality in nearby National Parks in Utah and seeks to file a brief discussing the special legal protections provided to these areas under state and federal law. Among the topics NPCA's brief would address are pollution concentration increments in Class I areas and the proper methodology for determining whether those areas may be adversely impacted. The brief would also discuss the PSD program's protection of air quality related values as well as aspects of the Clean Air Act's visibility protection program.

NPCA seeks leave to file an amicus brief of 10 to 15 pages in length that would be filed and served on the same day that the parties' pre-hearing briefs are due.

A proposed form of order granting the relief sought by this motion is attached hereto.

Respectfully dated and submitted this 24<sup>th</sup> day of August, 2007

THE LAW FIRM OF KATHRYN COLLARD, LC

A handwritten signature in black ink, appearing to read "Kathryn Collard", with a stylized flourish at the end.

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KATHRYN COLLARD  
Attorney for National Parks Conservation Association

## CERTIFICATE OF SERVICE

I hereby certify that on this 24<sup>th</sup> day of August 2007, I caused the original and eleven copies of the above and forgoing *National Park Conservation Association's Motion for Leave to Appear Amicus Curiae* to be served on the Utah Air Quality Board by hand delivery and the following interested parties via their respective email addresses shown below as agreed by the parties.

Fred G. Nelson Counsel, Utah Air Quality Board 160 East 300 South, 5 <sup>th</sup> Floor Salt Lake City, Utah 84114 <a href="mailto:fnelson@utah.gov">fnelson@utah.gov</a>	Michael Jenkins Pacific Corp 201 South Main, Suite 2200 Salt Lake City, Utah <a href="mailto:michael.jenkins@pacificcorp.com">michael.jenkins@pacificcorp.com</a>
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THE LAW FIRM OF KATHRYN COLLARD, LC

A handwritten signature in black ink, appearing to read "Kathryn Collard". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

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KATHRYN COLLARD

Attorney for National Parks Conservation Association